AO 257 (Rev. 6/78)

# DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT ☒ SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FILED
2015 JUL 30 P 1:18
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

## OFFENSE CHARGED

26 U.S.C. § 7206(1) – Making and Subscribing False Tax Returns;
26 U.S.C. § 7202 – Willful Failure to Collect and Pay Over Taxes;
31 U.S.C. § 5324(a)(3) –Structuring;
31 U.S.C. § 5317(c)—Forfeiture

☐ Petty
☐ Minor
☐ Misde-meanor
☒ Felony

PENALTY: 26 U.S.C. § 7206(1) –3 years prison, $250,000 fine, 1 year supervised release, $100 assessment; 26 U.S.C. § 7202 – 5 years prison, $250,000 fine, 3 years supervised release, $100 assessment; 31 U.S.C. § 5324(a)(3) – 5 years prison, $250,000 fine, 3 years supervised release, $100 assessment

DEFENDANT - U.S.

MUZAFFAR HUSSAIN

DISTRICT COURT NUMBER

CR 13 408 JST

## PROCEEDING

Name of Complaintant Agency, or Person (& Title, if any)

INTERNAL REVENUE SERVICE

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:
☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on this form: MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned): Jose Olivera, AUSA, Tax Div.

## DEFENDANT

### IS *NOT* IN CUSTODY

1) ☒ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

### IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction } ☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☒ No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

☐ This report amends AO 257 previously submitted

## ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount:

If Summons, complete following:
☐ Arraignment ☐ Initial Appearance

** Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment*

Defendant Address:

Date/Time: Before Judge:

Comments:

# United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED
2015 JUL 30 P 1:18
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

V.

CR 13 408 JST

MUZAFFAR HUSSAIN

DEFENDANT(S).

## INDICTMENT

26 U.S.C. § 7206(1) – Making and Subscribing False Tax Returns;
26 U.S.C. § 7202 – Willful Failure to Collect and Pay Over Taxes;
31 U.S.C. § 5324(a)(3) –Structuring;
31 U.S.C. § 5317(c)—Forfeiture

A true bill.

Foreman

Filed in open court this 30th day of

2015.

ROSE MAHER
Clerk

NANDOR J. VADAS
U.S. MAGISTRATE Judge

Bail, $ NO PROCESS

MELINDA HAAG (CABN 132612)
United States Attorney

FILED
2015 JUL 30 P 1: 17
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

JST

| | | |
|---|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>v.<br><br>MUZAFFAR HUSSAIN,<br><br>Defendant. | ) | CASE NO. 4:13-CR-00408-JST<br><br>VIOLATIONS: 26 U.S.C. § 7206(1) – Making and Subscribing False Tax Returns; 26 U.S.C. § 7202 – Willful Failure to Collect and Pay Over Taxes; 31 U.S.C. § 5324(a)(3) –Structuring ; and 31 U.S.C. § 5317(c)—Forfeiture<br><br>OAKLAND VENUE |

SUPERSEDING INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this indictment, unless otherwise indicated, and with all dates being approximate and all date ranges both approximate and inclusive:

COUNTS ONE THROUGH FIVE: (26 U.S.C. § 7206(1) – Making or Subscribing a False Tax Return)

1. On the dates set forth below, within the Northern District of California, the defendant,

MUZAFFAR HUSSAIN,

then a resident of Castro Valley, California, did willfully and knowingly make and subscribe to U.S. Corporation Income Tax Returns [Forms 1120] for Cross Roads Home Health Care and Hospice Inc.

("Crossroads"), a corporation located in San Francisco, California, for the 2004, 2005, 2006, 2007, and 2008 fiscal tax years, each of which was filed with the Internal Revenue Service and verified by the defendant in a written declaration that it was made under penalties of perjury, which he did not believe to be true and correct as to every material matter in that said Forms 1120 reported gross receipts as outlined below, whereas defendant then and there well knew and believed that the gross receipts for each fiscal tax year were in excess of that reported on the corresponding Form 1120.

| Count | Fiscal Year | Date Return Filed | Amount of Reported Gross Receipts | Amount of Omitted Gross Receipts |
|---|---|---|---|---|
| 1 | 2004 | 01/17/07 | $ 329,308 | $488,182 |
| 2 | 2005 | 01/17/07 | $ 362,304 | $827,707 |
| 3 | 2006 | 01/17/07 | $ 369,608 | $957,715 |
| 4 | 2007 | 03/17/08 | $1,143,650 | $334,854 |
| 5 | 2008 | 07/06/09 | $1,129,640 | $306,659 |
| Total | | | $3,334,510 | $2,915,117 |

Each in violation of Title 26, United States Code, Section 7206(1).

COUNTS SIX THROUGH EIGHT: (26 U.S.C. § 7206(1) – Making or Subscribing a False Tax Return)

2. On the dates set forth below, within the Northern District of California, the defendant,

MUZAFFAR HUSSAIN,

then a resident of Castro Valley, California, did willfully and knowingly make and subscribe to U.S. Income Tax Returns For An S Corporation [Forms 1120S] for Horizon Home Health Care, Inc. ("Horizon") an S corporation located in Hayward, California, for the calendar tax years 2004, 2005, 2006, each of which was filed with the Internal Revenue Service and verified by the defendant in a written declaration that it was made under penalties of perjury, which he did not believe to be true and correct as to every material matter, in that said Forms 1120S reported gross receipts as outlined below, whereas, defendant then and there well knew and believed that the gross receipts for each calendar tax year were in excess of that reported on the corresponding Form 1120S.

| Count | Calendar Year | Date Return Filed | Amount of Reported Gross Receipts | Amount of Omitted Gross Receipts |
|---|---|---|---|---|
| 6 | 2004 | 04/16/07 | $ 318,460 | $277,742 |
| 7 | 2005 | 04/17/07 | $ 450,116 | $634,132 |
| 8 | 2006 | 04/18/07 | $1,023,376 | $186,783 |
| Total | | | $1,791,892 | $1,098,657 |

Each in violation of Title 26, United States Code, Section 7206(1).

COUNTS NINE THROUGH THIRTEEN: (26 U.S.C. § 7206(1) – Making or Subscribing a False Tax Return)

3. On the dates set forth below, within the Northern District of California, the defendant,

MUZAFFAR HUSSAIN,

then a resident of Castro Valley, California, did willfully and knowingly make and subscribe to U.S. Income Tax Returns For An S Corporation [Forms 1120S] for Sunshine Home Health Care, Inc. ("Sunshine"), an S corporation located in Pleasanton, California, for the calendar tax years 2004, 2005, 2006, 2007, and 2008, each of which was filed with the Internal Revenue Service and verified by the defendant in a written declaration that it was made under the penalties of perjury, which he did not believe to be true and correct as to every material matter, in that said Forms 1120S reported gross receipts as outlined below, whereas defendant then and there well knew and believed that the gross receipts for each calendar tax year was in excess of that reported on the corresponding Form 1120S.

| Count | Calendar Year | Date Return Filed | Amount of Reported Gross Receipts | Amount of Omitted Gross Receipts |
|---|---|---|---|---|
| 9 | 2004 | 04/16/07 | $ 504,218 | $315,657 |
| 10 | 2005 | 04/18/07 | $ 516,219 | $688,177 |
| 11 | 2006 | 04/17/07 | $ 900,266 | $127,808 |
| 12 | 2007 | 04/01/08 | $ 860,021 | $408,794 |
| 13 | 2008 | 07/06/09 | $ 762,214 | $299,225 |
| Total | | | $3,542,938 | $1,839,661 |

Each in violation of Title 26, United States Code, Section 7206(1).

COUNTS FOURTEEN THROUGH THIRTY-ONE: (26 U.S.C. § 7202 – Willful Failure to Truthfully Account For And Pay Over Taxes)

4. Beginning on July 1, 2004, and continuing up to and including December 31, 2008, within the Northern District of California, the defendant,

MUZAFFAR HUSSAIN,

then a resident of Castro Valley, California, as the owner and corporate officer in charge and responsible person for Crossroads, who was required by the tax laws of the United States to collect, account for and pay over to the Internal Revenue Service, federal income taxes and Federal Insurance Contribution Act

Taxes from the total taxable wages of employees of Crossroads, did willfully fail to truthfully collect, account for and pay over to the Internal Revenue Service federal income taxes withheld and Federal Insurance Contributions Act taxes due and owing to the United States of America for a period of eighteen quarters from third quarter of 2004 through the fourth quarter of 2008, with each calendar quarter constituting a separate count of this indictment, as follows:

| Count | Period | Date Return Filed | Employee Portion of Unpaid Trust Fund Taxes |
|---|---|---|---|
| 14 | Q3 2004 | 02/12/08 | $ 28,560.20 |
| 15 | Q4 2004 | 10/22/07 | $ 27,076.60 |
| 16 | Q1 2005 | 02/12/08 | $ 30,543.17 |
| 17 | Q2 2005 | 02/12/08 | $ 31,375.57 |
| 18 | Q3 2005 | 02/12/08 | $ 33,803.89 |
| 19 | Q4 2005 | 02/12/08 | $ 35, 064.46 |
| 20 | Q1 2006 | 03/20/08 | $ 18,614.45 |
| 21 | Q2 2006 | 03/20/08 | $ 22,359.98 |
| 22 | Q3 2006 | 03/20/08 | $ 22,988.42 |
| 23 | Q4 2006 | 03/20/08 | $ 28,238.48 |
| 24 | Q1 2007 | 02/12/08 | $ 29,779.44 |
| 25 | Q2 2007 | 02/12/08 | $ 31,725.96 |
| 26 | Q3 2007 | 02/12/08 | $ 31,606.54 |
| 27 | Q4 2007 | 02/12/08 | $ 24,456.90 |
| 28 | Q1 2008 | 05/08/09 | $ 38,730.53 |
| 29 | Q2 2008 | 08/10/09 | $ 40,481.54 |
| 30 | Q3 2008 | Unfiled | $ 29,267.57 |
| 31 | Q4 2008 | 02/10/09 | $ 18,654.73 |
| Total | | | $523,328.43 |

Each in violation of Title 26, United States Code, Section 7202.

COUNT THIRTY-TWO: (31 U.S.C. § 5324(a)(3) – Structuring Transactions to Evade Reporting Requirements)

5. Beginning on March 6, 2010, and continuing up to and including May 24, 2010, within the Northern District of California, the defendant,

MUZAFFAR HUSSAIN,

then a resident of Pleasanton, California, did knowingly structure money transactions with a domestic financial institution, Bank of America, N.A., for the purpose of evading the reporting and record-keeping requirements of Section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, in order to avoid, in part, IRS collection efforts of the tax liabilities identified in Counts 14 through 31 above. Defendant committed this violation by dividing cash withdrawals involving sums of greater than $10,000 into separate withdrawals of less than $10,000 using bank accounts x4886, x0960, and x6596, with the purpose and intent of keeping each transaction under $10,000 per day, and did so as part of a pattern of illegal activity involving a total of at least $113,000 as follows:

| Cash Withdrawal Date | Cash Amount |
|---|---|
| 03/06/2010 | $ 3,000 |
| 03/06/2010 | $ 4,000 |
| 03/06/2010 | $ 2,900 |
| 03/18/2010 | $ 2,900 |
| 03/18/2010 | $ 2,900 |
| 03/19/2010 | $ 9,000 |
| 03/19/2010 | $ 900 |
| 03/22/2010 | $ 7,000 |
| 03/22/2010 | $ 2,900 |
| 03/22/2010 | $ 9,800 |
| 03/22/2010 | $ 500 |
| 03/23/2010 | $ 6,000 |
| 03/24/2010 | $ 7,000 |
| 03/27/2010 | $ 9,800 |
| 04/03/2010 | $ 2,900 |
| 04/03/2010 | $ 7,000 |
| 04/17/2010 | $9,600 |
| 04/19/2010 | $7,000 |
| 04/19/2010 | $ 2,900 |
| 04/20/2010 | $ 2,100 |
| 04/20/2010 | $ 2,900 |
| 05/24/2010 | $ 200 |
| 05/24/2010 | $ 9,800 |
| Total | $113,000 |

All in violation of Title 31, United States Code, Section 5324(a)(3).

FORFEITURE

THE GRAND JURY FURTHER FINDS THAT:

The allegations contained in Count Thirty-Two of this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 31, United States Code, Section 5317.

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Pursuant to Title 31, United States Code, Section 5317, upon conviction of an offense in violation of Title 31, United States Code, Section 5324, the defendant, MUZAFFAR HUSSAIN, shall forfeit to the United States of America all property, real or personal, involved in the offenses and any property traceable to such property. The property to be forfeited includes, but is not limited to $113,000.

If any of the property described above, as a result of any act or omission of the defendant:

a. Cannot be located upon the exercise of due diligence;

b. Has been transferred or sold to, or deposited with, a third party;

c. Has been placed beyond the jurisdiction of the court;

d. Has been substantially diminished in value; or

e. Has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 31, United States Code, Section 5317(c), Title 28, United States Code, Section 2461(c).

A True Bill

FOREPERSON

Dated: 7/30/15

MELINDA HAAG
United States Attorney

PHILIP A. GUENTERT
Deputy Chief, Criminal Division

Approved as to Form

CYNTHIA STIER
JOSE A. OLIVERA
Assistant United States Attorneys
Tax Division